direct that the matter be reinvestigated.

(b) *Reconsideration by the original approval authority.* The original approval authority may reconsider the action at any time while serving as the approval authority for the claim in question, even after the transfer of the soldier whose pay was assessed. The original approval authority may modify the action if it was incorrect, subject to paragraph (d) of this section. However, the approval authority should modify the action only because of fraud, substantial new evidence, errors in calculation, or mistake of law.

(c) *Reconsideration by a successor in command.* Subject to paragraph (d) of this section, a successor in command may modify an action only because of fraud, substantial new evidence, errors in calculation, or mistake of law apparent on the face of the record.

(d) *Legal review and action.* Prior to modifying the original action, the approval authority will have the servicing claims office render a legal opinion and fully explain the basis for modification as part of the file. If the legal review agrees that a return of the assessed pay is appropriate, the approval authority should request in writing that the claimant return the money, setting forth in the letter the basis for the request. There is no authority for repayment from appropriated funds.

(e) *Disposition of files.* After completing action on reconsideration, the approval authority will forward the reconsideration action to the servicing claims office, which will then file the action per § 536.132(h).

§ 536.134 Additional claims judge advocate and claims attorney responsibilities (for UCMJ claims).

In addition to the duties set forth in this subpart, the CJA or claims attorney is responsible for forwarding copies of completed Article 139 actions to USARCS, maintaining a log, monitoring the time requirements of pending Article 139 actions, and publicizing the Article 139 program to commanders, soldiers, and the community.

Subpart J—Claims Cognizable Under the Foreign Claims Act

§ 536.135 Statutory authority for the Foreign Claims Act.

(a) The statutory authority for this subpart is the Act of August 10, 1956, 10 U.S.C. 2734 (70 Stat. 154), commonly referred to as the Foreign Claims Act (FCA), as amended by Public Law 86–223, September 1959 (73 Stat. 453); Public Law 86–411, April 1960 (74 Stat. 16); Public Law 90–521, September 1968 (82 Stat. 874); Public Law 91–312, July 1970 (84 Stat. 412); Public Law 93–336, July 1974 (88 Stat. 292); Public Law 96–513, Title V, § 511 (95), December 1980 (94 Stat. 2928). It is posted on the USARCS Web site; for the address see § 536.2(a).

(b) Claims arising from the acts or omissions of the U.S. Armed Forces in the Marshall Islands or the Federated States of Micronesia are settled in accordance with Art. XV, Non-contractual Claims, of the U.S.-Marshall Islands and Micronesian Status of Forces Agreement (the ''SOFA'') (posted on the USARCS Web site; for the address see § 536.2(a)). This is pursuant to the ''agreed upon minutes'' that are appended to the SOFA, pursuant to Section 323 of the Compact of Free Association between the U.S. and the Marshall Islands and the Federated States of Micronesia, enacted by Public Law 99–239, January 14, 1986. (The Compact may be viewed at *http://www.fm/jcn/compact/relindex.html*). The ''agreed upon minutes'' state that ''all claims within the scope of paragraph 1 of Article XV [Claims], [of the Compact] * * * shall be processed and settled exclusively pursuant to the Foreign Claims Act, 10 U.S.C. 2734, and any regulations promulgated in implementation thereof.'' Therefore, Title I, Article 178 of the Compact, regarding claims processing, is not applicable to claims arising from the acts or omissions of the U.S. armed forces, but only to other federal agencies. Those agencies are required to follow the provisions of the Federal Tort Claims Act, 28 U.S.C. 2672.

§ 536.136 Scope for claims arising under the Foreign Claims Act.

(a) *Application.* This subpart, which is applicable outside the United States, its commonwealths, territories and